

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-52 are pending in the application, with claims 1, 38, and 42 being the independent claims. Claims 1, 38, 42 and 43 have been amended to clearly define the inventive subject matter encompassed therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

**Rejections Under 35 U.S.C. § 103**

The Examiner has rejected claims 1-40 and 42-52 as allegedly being unpatentable over Safetylogic under U.S.C. § 103(a), according to the following articles about Aon's Safetylogic:

- A. Roberts' "new online tool target loss costs"
- B. Gjersen's "'Aonline' offers web serviced to RMs"
  - hereinafter Safetylogic

Although the Office Action does not indicate that claim 41 is rejected, Applicant assumes the Examiner intended to also reject claim 41 under U.S.C. § 103(a), as indicated above for claims 1-40 and 42-52. Applicant traverses the rejection of claims 1-52.

To establish a *prima facie* case of obviousness, all of the claimed features must be taught or suggested by the references and there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, MPEP Section 2142.

Applicant respectfully submits that Safetylogic fails to teach or suggest the claimed invention. In particular, Safetylogic fails to teach or suggest a method comprising, *inter alia*, generating one or more site-specific assessment files from one or more populated discipline-specific master assessment manuals, **each of the one or more site-specific assessment files being a subset of one or more discipline-specific questions**, as recited in claims 1, 38, and 42. These features are discussed, for example, in Applicant's specification paragraph 0120, and are illustrated in FIG. 1A.

For example, the Office Action states on page 3 that "Safetylogic inherently creates a file for the site-specific assessment since that assessment is then transmitted over the Internet." However, Safetylogic is completely silent, and so is the Office Action, regarding generation of a **site-specific assessment file from a discipline-specific master assessment manual**. Certainly Safetylogic is silent regarding Applicant's specifically recited technique where each of the site-specific assessment files are a subset of the discipline-specific questions.

Even assuming *arguendo* that Safetylogic teaches what the Examiner alleges, which the Applicant traverses, it appears that the Examiner has taken what amounts to impermissible Official Notice. On page 3 of the Office Action, the Examiner states

Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to create checklists from existing templates.

By utilizing templates for creation of checklists (assessments), one ensures consistency of results.

The Examiner is reminded that pursuant to M.P.E.P Section 2144.03 (emphasis added):

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

Since the Examiner offers no documentary evidence that generating one or more discipline-specific master assessment manuals from one or more master assessment templates is capable of instant and unquestionable demonstration as being well-known, Applicant asserts the above statements by the Examiner amount to nothing more than impermissible Official Notice. Thus, the above statements do not meet the required burden pursuant to the M.P.E.P. to assert Office Notice for these features of claims 1, 38, and 42.

In view of the above arguments, it is clear that claims 1, 38, and 42 would not have been rendered obvious by Safetylogic to one of ordinary skill in the art at the time of the invention. Therefore, claims 1, 38, and 42 are allowable under 35 U.S.C. § 103 as being patentable over Safetylogic.

Claims 2-37 depend from claim 1, claims 39-41 depend from claim 38, and claims 43-52 depend from claim 42. Therefore, claims 2-37, 39-41, and 43-52 are

allowable at least for the reasons claims 1, 38, and 42 are allowable, and for the specific features recited therein.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Theodore A. Wood  
Attorney for Applicants  
Registration No. 52,374

Date: May 15, 2007

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600

675640\_1.DOC